

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

THE UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Civil Action No. 05-10112 JLT
)	
v.)	
)	
THE COMMONWEALTH OF)	
MASSACHUSETTS, <i>et al.</i>)	
)	
Defendants.)	
)	

**UNOPPOSED MOTION FOR LEAVE TO
FILE MEMORANDA OF LAW IN EXCESS OF 20 PAGES**

Pursuant to Local Rule 7.1(B)(4), Plaintiff the United States of America requests that the Court grant the parties leave to file memoranda of law in excess of 20 pages in support of, and in opposition to, Plaintiff's planned motion for judgment on the pleadings. In support thereof, Plaintiff states as follows:

1. The United States filed this civil action on January 18, 2005, to declare invalid and to permanently enjoin legislation signed into law on August 4, 2004, by defendant the Honorable Mitt Romney, governor of defendant the Commonwealth of Massachusetts, known as An Act Relative to Oil Spill Prevention and Response in Buzzards Bay and Other Harbors and Bays of the Commonwealth, 2004 Mass. Acts 251, as amended by 2004 Mass. Acts 457 § 1 (December 30, 2004) ("Tanker Law"). The United States alleges that certain provisions of the Tanker Law legislate in areas committed to the sole discretion of plaintiff United States, are expressly forbidden by federal law, conflict with federal law, and/or otherwise impede the

accomplishment and execution of the full purposes and objectives of federal law. The United States alleges that these provisions of state law are, accordingly, preempted by federal law and invalid under the Supremacy Clause of the United States Constitution, Article VI, Clause 2.

Accordingly, the United States seeks declaratory and injunctive relief.

2. Plaintiff anticipates filing a motion for judgment on the pleadings, pursuant to Fed. R. Civ. P. 12(c), on or about May 23, 2005.

3. The parties anticipate that it will be necessary to file memoranda of law in excess of 20 pages in support of, and in opposition to, the United States' motion for judgment on the pleadings. In their briefing, the parties will need to address the individual validity of numerous provisions of the Tanker Law in light of the extensive statutory and treaty law of the United States concerning tankers.

4. Given these considerations, and because the adjudication of the legislative act of a state is a matter of great import and public interest, the parties respectfully request that they be given leave to file memoranda of law of up to 30 pages. A proposed order accompanies this motion for the Court's convenience.

5. Counsel for all parties have represented to undersigned counsel for the Plaintiff, Department of Justice Trial Attorney Steven Y. Bressler, that they do not oppose this motion. Specifically, on May 11, 2005, undersigned counsel spoke with lead counsel for Defendants the Commonwealth of Massachusetts, et al., Assistant Attorney General Pierce O. Cray, to confer regarding this matter. Mr. Cray stated that Defendants would not oppose this motion. On May 12 and 13, 2005, undersigned counsel spoke with co-counsel for Intervenor-Defendant the Coalition for Buzzards Bay, Elisabeth M. DeLisle, to confer regarding this matter. On May 13,

Ms. DeLisle stated that she had discussed the matter with lead counsel for Intervenor-Defendant Jonathan M. Ettinger, and that Intervenor-Defendant does not oppose this motion. Finally, undersigned counsel conferred via telephone with counsel for Intervenor-Plaintiffs American Waterway Operators, et al., Jonathan Benner, on May 16, 2005, at which time Mr. Benner stated that Intervenor-Plaintiffs do not oppose this motion.

WHEREFORE, with good cause having been shown, Plaintiff respectfully requests that this Court grant the parties leave to file memoranda of law in support of, and in opposition to, the United States' motion for judgment on the pleadings, of up to 30 pages.

DATED this 16th day of May, 2005.

RADM John E. Crowley
Judge Advocate General

CAPT William D. Baumgartner
Robert W. Bruce
Andrew J. Turner
Attorneys
U.S. Coast Guard

OF COUNSEL

Respectfully Submitted,

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[PROPOSED] ORDER

AND NOW, this _____ day of _____, 2005, it is hereby ORDERED that Plaintiff's Unopposed Motion for Leave to File Memoranda of Law in Excess of 20 Pages pursuant to Local Rule 7.1(B)(4) is GRANTED. The parties may file memoranda of law of up to 30 pages in support of, or in opposition to, Plaintiff's motion for judgment on the pleadings.

HON. JOSEPH L. TAURO
United States District Judge